

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SALMA AGHA-KHAN,

Plaintiff,

v.

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC., et al.

Defendants.

Case No. 2:17-cv-02739-GMN-CWH

ORDER

Presently before the Court is Defendants Fidelity National Default, LSI Title Agency, Inc., Servicelink, Chicago Title Agency Nevada, and Loancare's motion for demand for security of costs (ECF No. 10), filed on November 17, 2017. Plaintiff filed a response (ECF No. 18) on November 28, 2017, and Defendants filed a reply (ECF No. 19) on December 1, 2017.

Also before the Court is Defendants Mortgage Electronic Registration Systems, Inc., Merscorp Holdings, Inc., and The Bank of New York Mellon's motion for demand of security costs (ECF No. 24), filed on December 1, 2017. Plaintiff has not filed a response.

Collectively, these eight defendants demand Plaintiff post a \$500 cost bond pursuant to Nev. Rev. Stat. 18.130(1) for each named defendant. Plaintiff opposes the motion, arguing that she is a resident of Nevada, so Nev. Rev. Stat 18.130(1) is inapplicable.

Under Nevada law, when a Plaintiff in an action resides outside of the state of Nevada, "security for the costs and charges which may be awarded against such plaintiff may be required by defendant, by the filing and service on plaintiff of a written demand therefor within the time limit for answering the complaint." Nev. Rev. Stat. 18.130(1). When a defendant demands a cost bond, "all proceedings in the action shall be stayed" until plaintiff files "an undertaking, executed by two or more persons, to be filed with the clerk, to the effect that they will pay such costs and charges as may be awarded against the plaintiff by judgment, or in the progress of the action" or "in lieu of such undertaking the plaintiff may deposit \$500, lawful money, with the clerk of the court." *Id.* "After the lapse of 30 days from the service of notice that security is required, or of an order for

1 new or additional security, upon proof thereof, and that no undertaking as required has been
2 filed, the court or judge may order the action to be dismissed.” Nev. Rev. Stat. 18.130(4).

3 Here, Defendants move for a cost bond based on Plaintiff’s representations that she is a
4 resident of California. Plaintiff argues that she is a resident of both Nevada and California, based on
5 her representations that she maintains a second home in Nevada. Plaintiff also maintains that she has
6 always had a good faith intention to return to Nevada, and has done so frequently for many years.

7 The Court notes that Plaintiff has listed her county of residence as Los Angeles on the civil
8 cover sheet accompanying her complaint (ECF No. 1-1), and has listed her address as “3751 Motor
9 Avenue #34272, Los Angeles, California 90034 on the complaint itself. Although Plaintiff
10 represents that she returns from California to Nevada frequently, and maintains property here,
11 Plaintiff does not provide any authority to support her argument that she can be considered, for
12 purposes of Nev. Rev. Stat. 18.130(1), a resident of Nevada at the same time she is a resident of
13 California. As Plaintiff unambiguously claims to be a resident of California in her complaint and
14 accompanying documentation, the Court finds that she is a California resident for purposes of Nev.
15 Rev. Stat. 18.130(1).

16 The Court will therefore stay this action until Plaintiff files an undertaking with the Court as
17 described above, or alternatively, files a cost bond with the Court in the amount of \$500 for each of
18 the eight named movants, or make a cash deposit of \$500 as to each movant. If Plaintiff fails to file
19 an undertaking, post a cost bond, or make a cash deposit with each movant within thirty days of this
20 order, the Court may recommend that this action be dismissed.

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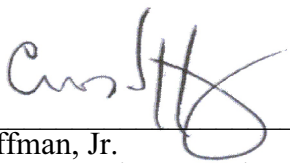
1 IT IS THEREFORE ORDERED that Defendants' motions for demand of security costs (ECF
2 Nos. 10 and 24) are GRANTED.

3 IT IS FURTHER ORDERED that Plaintiff shall file an undertaking in accordance with Nev.
4 Rev. Stat. 18.130(1), or post a cost bond with the Court in the amount of \$500, or make a cash
5 deposit of \$500, for each of the following movants: Fidelity National Default; LSI Title Agency,
6 Inc.; Servicelink; Chicago Title Agency Nevada Loancare; Mortgage Electronic Registration
7 Systems, Inc.; Merscorp Holdings, Inc.; The Bank of New York Mellon.

8 IT IS FURTHER ORDERED that this case is STAYED. After Plaintiff complies with her
9 obligations under this order, any party may move to lift the stay.

10 IT IS FURTHER ORDERED that if Plaintiff does not file an undertaking, post a cost bond,
11 or make a cash deposit with each of the named movants within thirty days of this order, the Court
12 may issue a recommendation that this case be dismissed.

13 DATED: December 20, 2017

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16 C.W. Hoffman, Jr.
United States Magistrate Judge
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